

The Texas Natural Resource Conservation Commission (commission) adopts amendments to §330.4, and §330.65, concerning municipal solid waste (MSW) management. Section 330.4 is adopted without changes to the proposed text as published in the December 25, 1998, issue of the *Texas Register* (23 TexReg 13014) and will not be republished. Section 330.65 is adopted with changes to the proposed text as published.

#### EXPLANATION OF ADOPTED RULE

The purpose of these rules is to modify existing rule language regarding MSW transfer station authorization and design requirements. The rules will clarify that an MSW transfer station may be authorized within the permitted boundaries of any MSW landfill, including a Type IV landfill, with a registration instead of a permit. The rules will also prohibit construction of transfer stations before authorization, modify transfer station odor control criteria, specify public notice requirements, and provide for a motion for reconsideration.

This rule clarifies that an MSW transfer station may be authorized to operate at an existing Type IV facility by registration as opposed to a permit. The commission has been directed by Texas Health and Safety Code, §361.0861 and §361.111, to register certain kinds of transfer stations and to exempt them from permits.

This rule will prohibit construction of a transfer station prior to completion of the authorization process. The prohibition is similar to existing policy for some MSW facilities, such as liquid waste transfer, and grease and grit trap waste processing facilities.

Odor control standards have been strengthened. The new odor standards are essentially the same as those contained in existing rules for transfer stations that recover material from the waste stream (existing 30 TAC §330.65(f)(2)).

Public notice requirements will provide notification to the public prior to facility authorization that a transfer station authorization is pending and that a public meeting has been scheduled. The rule will update the public notice rule reference and also establish public notice requirements that are consistent with those required for similar MSW facility registrations (existing 30 TAC §330.71(d)(2)).

A motion requesting that the commission reconsider a decision to approve a registration may be filed. The new motion for reconsideration provision is consistent with an existing commission rule for registered facilities (existing 30 TAC §332.35(e)).

#### FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code (the Code), §2001.0225, and has determined that the adoption is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Code, and it does not meet any of the four applicability requirements listed in §2001.0225(a). The rule does not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because the rule is designed to protect the environment and reduce the risk to human health from environmental exposure. New transfer stations will be required to be designed and operated to prevent

nuisance odors from leaving the property boundary of the facility. Openings to process buildings required will be controlled to prevent releases of nuisance odors to the atmosphere. All odor control equipment will be properly maintained and operated during the process operation. One or more of the following odor control measures will be required to be employed: air scrubber units for odor control; on-site buffer zones for odor control, additional waste handling procedures, storage procedures, and clean-up procedures for odor control when accepting putrescible waste, or alternative ventilation and odor control measures approved by the executive director.

The economy, a sector of the economy, productivity, competition, or jobs will not be adversely affected in a material way because the additional costs caused by the rule are minimal when compared to the revenue that may be generated by such a facility. For example, a transfer station accepting an average of 50 tons per day at the statewide average tipping fee of \$30.77 per ton would generate a gross income of \$1,538.50 per day and \$561,552.50 per year. Additional costs caused by the rules could range from \$0 to an estimated \$33,000. The costs resulting from this rule will contribute a one time only cost ranging from 0% to a maximum of 5% of the total annual gross revenue for this example facility.

The rules will potentially add costs for notice to be provided to the public and may add additional costs for odor control. The additional costs added by this rule are a one-time-only cost. The new costs for public notice are estimated to range from \$500 to \$3000 depending on the publication charges of the local newspaper. Public notice costs are usually lower in rural areas and are based on the costs

attributed to newspaper publication of the public notice. The public notice costs will be the same as for similar MSW registered facilities.

Odor control provisions of these rules could, if required, increase an operator's costs to operate or capitalize a transfer station, depending on the control method selected. Such costs could range from \$0.00 for addition of on-site buffer for odor control at sites where the registrant already owns sufficient acreage to comply with the buffer requirements of the proposed rules to as much as \$30,000 for a mechanical odor control device such as an air scrubber. Additional costs for odor control may be avoided by using one of two options. One low cost odor control option is to use clean-up and management procedures for odor control, and the other low cost odor control option is to use additional buffer space that is normally available at landfills and is frequently available in rural areas.

In contrast to these potential cost increases, operators of MSW transfer stations may realize cost savings where registrations now will replace permits as authorizations to operate. These cost savings may be expected in lowered legal and consulting fees because a public hearing will not be required.

A comparison between small business and large business costs of the proposed rule changes has been prepared. A small business having a range of employees of 1 to 100 will have costs between \$330 and \$33,000 per employee for the highest possible expenditures associated with both the public notice requirements and odor control requirements. For a large business having 70,000 employees, the costs will be \$.47 per employee for the highest possible expenditures associated with both the public notice requirements and odor control requirements.

The rule does not adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state, because the rule is designed to protect the environment and reduce the risk to human health from exposure to nuisances.

The purpose of these rules is to modify existing rule language regarding MSW transfer station authorization and design requirements. The rules will clarify that a transfer station can be established on any MSW landfill, including a Type IV landfill, with a registration authorization; prohibit construction of transfer stations prior to authorization; modify transfer station odor control criteria; specify public notice requirements; and provide for a motion for reconsideration.

The adoption of this rule is based upon the statutory authority granted to the Commission in §361.081, Texas Health and Safety Code. Section 361.0861 states that a permit holder or a municipal solid waste management facility that plans to have a transfer station established in conjunction with the permitted municipal solid waste management facility, is not required to obtain, for that transfer station, a separate permit from the Commission or apply for an amendment to an existing permit issued by the Commission. Section 361.0861 requires such a facility to register with the Commission in accordance with the Commission's rules. Specifically §361.0861(a) and (b) say "A permit holder or a municipal solid waste management facility that has or plans to have a recycling, waste separation, energy and material recovery, or gas recovery or transfer facility established in conjunction with the permitted municipal solid waste management facility is not required to obtain for that recycling, waste separation, energy and material recovery, or gas recovery or transfer facility a separate permit from the commission or to apply for an amendment to an existing permit issued by the commission. A facility

to which this section applies must register with the commission in accordance with commission rules and comply with commission rules adopted under this chapter.” This rule will clearly state the authority of the commission, established under section 361.0861, to allow the authorization of transfer stations via registrations in conjunction with permitted MSW facilities including Type IV facilities.

Transfer facilities provide accessibility to proper disposal of municipal solid waste. Although transfer facilities are not disposal facilities, they provide a mechanism for municipal solid waste to be collected, managed and transported to the proper disposal facility such as a Type I municipal solid waste facility. In addition, transfer facilities provide the convenient mechanism for the disposal of municipal solid waste without the actual siting or creation of a new Type I municipal solid waste permitted facility. Transfer stations are a means to the efficient use of existing Type I municipal solid waste landfills and allow an existing Type I municipal solid waste landfill facility to maximize its utility by accepting waste from those areas served by the transfer station.

This proposal does not exceed a standard set by federal law, and is specifically required by state law (Texas Health and Safety Code, Chapter 361, Solid Waste Disposal Act, §361.0861). Permit exemptions for MSW transfer facilities are authorized by Texas Health and Safety Code, Chapter 361, Solid Waste Disposal Act, §361.0861 and §361.111. One of the primary differences between a registration and a permit is that a contested case hearing has historically not been required in the MSW program for MSW program registered facilities, although a contested hearing is potentially required for permitted facilities. The commission has been directed by Texas Health and Safety Code, §361.0861 and §361.111 to register certain kinds of transfer facilities and to exempt them from permits.

This proposal does not exceed the requirements of a delegation agreement or contract between the state and federal government, as there is no agreement or contract between the commission and the federal government concerning MSW transfer facilities.

The changes to §330.4 and §330.65 are not being made under the general powers of the commission. Rather, the changes are being made under the requirements of a specific state law that allows the commission to exempt MSW transfer stations from permits, allows the commission to establish rules for the design and operational requirements for MSW transfer stations, and requires a public meeting on each new transfer station. Specific state law includes Texas Health and Safety Code, Chapter 361, Solid Waste Disposal Act, §361.0861 and §361.111, Solid Waste Disposal Act.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to modify the authorization, design, and operation requirements for MSW transfer stations. The rules will substantially advance this stated purpose by adopting rules that follow the requirements of a specific state law that allows the commission to exempt MSW transfer stations from permits, allows the commission to establish rules for the design and operational requirements for MSW transfer stations, and requires a public meeting on each new transfer station. Specific state law includes Texas Health and Safety Code, Chapter 361, Solid Waste Disposal Act, §361.0861 and §361.111. Promulgation and enforcement of these rules will somewhat burden private real property that is the subject of the rules because the changes will limit or restrict a person's rights in private real

property by adding additional costs for notice to be provided to the public, and may add additional costs for odor control. The additional costs added by this rule are a one-time-only cost. The new costs for public notice are estimated to range from \$500 to \$3000 depending on the publication charges of the local newspaper. Public notice costs are usually lower in rural areas and are based on the costs attributed to newspaper publication of the public notice. The public notice costs will be the same as for similar MSW registered facilities.

Odor control provisions of these rules could, if required, increase an operator's costs to operate or capitalize a transfer station, depending on the control method selected. Such costs could range from \$0.00 for addition of on-site buffer for odor control at sites where the registrant already owns sufficient acreage to comply with the buffer requirements of the proposed rules to as much as \$30,000 for a mechanical odor control device such as an air scrubber. Additional costs for odor control may be avoided by using one of two options. One low cost odor control option is to use clean-up and management procedures for odor control, and the other low cost odor control option is to use additional buffer space that is normally available at landfills and is frequently available in rural areas.

In contrast to these potential cost increases, operators of MSW transfer stations may realize cost savings where registrations now will replace permits as authorizations to operate. These cost savings may be expected in lowered legal and consulting fees because a public hearing will not be required.

The rules are necessary to advance the agency's mission of providing adequate public health and safety relative to the management of MSW. The rules will provide significant changes regarding the



procedures and criteria to be used by the commission and the regulated community in the review and approval of registration applications for activities regulated under this chapter.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking action is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.); the rules of the Coastal Coordination Council (31 TAC Chapters 501-506); and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(4) and 30 TAC §281.45(a)(3), relating to actions and rules subject to the CMP, agency rules regarding solid waste management must be consistent with the goals and policies of the CMP to protect the coastal area. The CMP goal applicable to the rulemaking is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs). Applicable policies are construction and operation of solid waste treatment, storage, and disposal facilities, such that new solid waste facilities and areal expansions of existing solid waste facilities shall be sited, designed, constructed, and operated to prevent releases of pollutants that may adversely affect CNRAs and, at a minimum, comply with standards established under the Solid Waste Disposal Act, 42 United States Code Annotated, §§6901 et seq. Promulgation and enforcement of this rule is consistent with the applicable CMP goals and policies because the permit exemption will have a negligible impact upon the coastal area. This rule will not eliminate any existing standards for transfer station operation or design and will add odor control standards for transfer stations. Transfer facilities provide accessibility to proper disposal of municipal solid waste. Although transfer facilities are not

disposal facilities, they provide a mechanism for municipal solid waste to be collected, managed and transported to the proper disposal facility such as a Type I municipal solid waste facility. In addition, transfer facilities provide the convenient mechanism for the disposal of municipal solid waste without the actual siting or creation of a new Type I municipal solid waste permitted facility. Transfer stations are a means to the efficient use of existing Type I municipal solid waste landfills and allow an existing Type I municipal solid waste landfill facility to maximize its utility by accepting waste from those areas served by the transfer station. In addition, the rule does not violate any applicable provisions of the CMP's state goals and policies. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rule is consistent with CMP goals and policies.

#### HEARING AND COMMENTERS

A public hearing on this proposal was held in Austin on January 14, 1999. No oral testimony was provided on this proposal. The following five commenters submitted written comments: BFI Waste Systems of North America (BFI), the Lone Star Chapter of the Solid Waste Association of North America (TXSWANA), Tyler County, Everett Griffith, Jr. and Associates, and the National Solid Waste Management Association (NSWMA).

#### ANALYSIS OF COMMENTS

BFI expressed support for the proposed amendments. Other commenters expressed support but had constructive comments and suggested changes.

**The commission appreciates the support from BFI and others.**

TXSWANA expressed support for changes to §330.4 that clarify that transfer stations can be authorized on MSW landfills, including Type IV landfills, with a registration. TXSWANA also expressed support for rules that enhance and further clarify the technical requirements applicable to transfer stations. TXSWANA recommended that several issues be clarified in the final rule to avoid any confusion about the rule's intent.

TXSWANA stated that §330.65(b)(3) could be interpreted to subject applicants to newly adopted requirements even though those requirements were not effective when the application was filed or even after the registration was granted. TXSWANA believes that an applicant is entitled to rely upon the substantive requirements in place at the time his application is filed because any other policy would significantly disrupt the ability of the solid waste community to accurately plan and budget for long-term projects. TXSWANA recommended that a phrase be added to §330.65(b)(3) to clarify that the rule will not subject applicants to requirements that are not in effect when they file their applications.

**The commission appreciates the support from TXSWANA. Clarification to §330.65(b)(3) is appropriate. The commission agrees with the commenter that the proposed language could be interpreted to subject applicants to newly adopted requirements even though those requirements were not effective when the application was filed or even after the registration was granted. Thus, the commission agrees to add the phrase “of the previous rule” to §330.65(b)(3), changing the language to the following: “If a transfer station registration application was filed under a previous rule but the registration has not been issued, the applicant shall complete all registration requirements of the previous rule within one year of the effective date of this section or the**

**application will be automatically withdrawn. If a registration application is filed under this section, the applicant shall complete all registration requirements within one year of the date of receipt by the commission or the application will be automatically withdrawn.”**

TXSWANA stated that §330.65(b)(4) could similarly be interpreted to subject applicants to newly-adopted requirements even though those requirements were not effective when the application was filed or even after the registration was granted.

**The commission agrees with TXSWANA that §330.65(b)(4) as proposed could be interpreted to subject applicants to newly adopted requirements even though those requirements were not effective when the application was filed or even after the registration was granted. Consequently, the commission has deleted §330.65(b)(4).**

TXSWANA stated that the broad nature of §330.65(d)(2)(A)(v) could hinder the operational flexibility of transfer stations in the state, and that although TXSWANA supports the idea of ensuring that the site plan and location map are as accurate as possible, there are some operational features that need to be changed from time to time at transfer stations. If such features are ever required by the executive director to be specified in the site plan or location map pursuant to §330.65(d)(2)(A)(v), a facility's ability to address ongoing operational issues might be hindered, and because many features may be relocated over the life of a facility, requiring too much detail in the site plan or location map has a greater risk of causing confusion than providing any real assistance or useful information regarding the facility.

**The commission agrees that the broad nature of §330.65(d)(2)(A)(v) could result in the commission requiring overly-specific information regarding operational procedures and features to be included in a transfer station registration. Since changes to information contained in a transfer station registration must be approved by the commission through the permit modification process specified in §305.70, inclusion of overly-specific information within the registration could hinder an operational facility's ability to address operational features and issues. Consequently, the commission has deleted §330.65(d)(2)(A)(v).**

NSWMA supported the clarification in §330.4 that a registered transfer station may be located at either a Type I, II, III, or IV landfill. This position is consistent with the legislation which does not distinguish between the different landfill classifications.

**This comment is consistent with the proposed rule, so no changes are required.**

NSWMA commented that §330.65(b)(1) should specify a time limit for commission staff to conduct a pre-opening inspection.

**Although the commission understands NSWMA's wish to have a specific time limit for commission staff to conduct a pre-opening inspection, no time limit will be established by rule. To establish a time limit would cause a burden to commission resources. Currently, the program operates without such a time limit, and the commission is not aware of any undue hardship caused by not having such a limit. The commission's regional offices that conduct the pre-opening**

**inspections do not have the necessary personnel to conduct non-complaint related inspections without prior notice. Region office personnel conduct scheduled annual inspections for permitted, registered or any other authorized facilities and also respond to complaints filed by the public. The commission's region offices schedule their inspections 30 days in advance. The commission would recommend that a transfer station registrant contact the commission's region office in their area to schedule a pre-opening inspection at least 30 days in advance. The initial contact by the transfer station registrant should allow the region office an opportunity to schedule and conduct the required pre-opening inspection. No change is made to §330.65(b)(1).**

NSWMA commented that §330.65(b)(3) will require applicants to complete the registration within one year or the application will be automatically withdrawn, without the benefit of language in the rule offering guidance on how to calculate the time spent by commission staff reviewing the proposal.

**The commission understands NSWMA's wish to have controls established over the staff review time. However, no time limit will be established by rule. The time to process a registration from receipt to final authorization is typically six months. Registrations have been processed in as little as 60 days. In the last year only seven registration applications have been received. This rule will require that an applicant complete the registration process within one year, and if the application is not completed within one year, the application will be administratively withdrawn. The one year time frame starts on the date of receipt of the registration application by the executive director and ends 365 days after receipt of the application. Within that time frame the application normally should be processed and the authorization should be approved by the**

**executive director. In the past, the staff review time typically averaged one half of the total process time depending on the complexity of each case and the quality of the application. The additional six months of registration process time above the normal processing time will provide an ample amount of time to allow for contingencies. The commission believes that the one year time frame established by this rule provides a reasonable amount of time for a registrant to complete registration requirements, and consequently, it should not be burdensome to a registrant. Should an application be withdrawn, the applicant will be free to re-apply at any time without penalty. No change is made to §330.65(b)(3).**

NSWMA commented that language in §330.65(d)(2)(A)(v) requiring the identification of any "pertinent design information as determined by the executive director" is too vague and does not give an applicant notice of all the requirements prior to filing an application.

**The commission agrees with NSWMA that the language is too vague. Consequently, the commission has deleted §330.65(d)(2)(A)(v).**

NSWMA comments that language in §330.65(d)(3)(C) should specify a time period for the commission to hold a public meeting.

**Although the commission understands NSWMA's wish to have controls established over the time period for staff to hold a public meeting, no time limit will be established by rule. The rule requires an applicant to complete all registration requirements, including the requirement to**

**conduct a public meeting, within one year of commission receipt of an application. The commission would point out that the public meeting can be held anytime within the one year period following receipt of the application. The commission believes that a one year time frame for a public meeting is reasonable. No change is made to §330.65(d)(3)(C).**

NSWMA commented that language in §330.65(d)(3)(D) requiring the listing of all property owners within 500 feet of the site is over burdensome to the applicant.

**The commission currently uses this standard in the existing §330.52(b)(4)(D), regarding Technical Requirements of Part I of the Application, for MSW facilities and finds that it is not overly burdensome. This 500 foot provision is not a new requirement for transfer stations because it is already required under §330.52(b)(4)(D). Additionally, a list of property owners within 500 feet is already required for landfills, and because this rule is for transfer stations located on landfills, the list should already be in existence for transfer stations which will be located on landfills. No change is made to §330.65(d)(3)(D).**

NSWMA commented that language in §330.65(e)(5) should require enclosed buildings only if the transfer station receives more than a certain average daily tonnage.

**The commission language in §330.65(e)(5) does not require the use of enclosed buildings for transfer stations. However, the commission highly recommends the use of enclosed buildings, especially for larger facilities. No change is made to §330.65(e)(5).**



NSWMA commented that language in §330.65(e)(5)(A) should be modified so that the provision to control openings to process buildings to prevent releases of nuisance odors should have the phrase "required under (f)(1)" inserted after "buildings."

**The commission agrees with NSWMA that the language is too vague. Thus, the commission agrees to add the phrase "required under (f)(1)" to §330.65(e)(5)(A), changing the language to the following: "Openings to process buildings required under (f)(1) shall be controlled to prevent releases of nuisance odors to the atmosphere."**

NSWMA commented that language in §330.65(e)(5)(C)(i) regarding air scrubber units for odor control should only be required if the facility is adjacent to residential units and it is absolutely the only method available for controlling odor because of the particular type of waste.

**The air scrubber language in §330.65(e)(5)(C)(i) provides only one of four available options that an operator may utilize to control odors. Other available odor control options are detailed in §§330.65(e)(5)(C)(ii)-(iv). No change is made to §330.65(e)(5)(C)(i).**

NSWMA commented that language in §330.65(e)(5)(C)(iii) regarding additional waste handling procedures is too vague and does not give the applicant adequate notice of the specific requirements.

**The odor control language in §330.65(e)(5)(C)(iii) provides only one of four options that are allowed to prevent the release of nuisance odors to the atmosphere, and it is meant to be flexible**

**to assist the applicant. New transfer stations will be required to be designed and operated to prevent nuisance odors from leaving the property boundary of the facility. Openings to process buildings required will be controlled to prevent releases of nuisance odors to the atmosphere. All odor control equipment must be properly maintained and operated during the process operation. One or more of the following odor control measures will be required to be employed: air scrubber units for odor control; on-site buffer zones for odor control, additional waste handling procedures, storage procedures, and clean-up procedures for odor control when accepting putrescible waste, or alternative ventilation and odor control measures approved by the executive director. No change is made to §330.65(e)(5)(C)(iii).**

NSWMA commented that in §330.65(e)(5)(C)(iv) the word “other” should be replaced with “alternative” when describing the ventilation and odor control measures which can be approved by the executive director, and that this will promote the flexibility to use any method which will work successfully.

**The commission agrees with the commenter that language in §330.65(e)(5)(C)(iv) should be modified to be flexible to assist the applicant. Thus, the commission will replace the word “other” with the word “alternative” in §330.65(e)(5)(C)(iv), changing the language to the following: “Alternative ventilation and odor control measures approved by the executive director.”**

Both Tyler County and Everett Griffith, Jr. and Associates made comments pertaining specifically to the disposal of wastewater at solid waste transfer stations to allow the use of an on-site sewage facility to treat and dispose of wastewater collected from transfer station floors. They stated that “The current on-site treatment rules in §285.3(d)(2) excluded wastewater from treatment. Any transfer station that uses on-site treatment is in violation of the on-site rule. On the other hand, §330.152(b) and §330.153(b) requires that wastewaters at a transfer station be treated in accordance with rules and regulations of the State. Therefore, this wastewater must be treated. When the option of a central wastewater collection system is not available for disposal the only available option is on-site treatment. This conflict between the rules §285.3, §330.152 and §330.153 poses a problem for those transfer station locations that do not have access to a central collection system. When treating the wastewater using the only option available to them (on-site treatment) which is required by §330.152, §330.153 they are then in violation of §285.3 which does not allow treatment of this wastewater. Transfer stations have been permitted under the solid waste rules and approved using on-site treatment of the wastewater. On-site treatment has successfully treated wastewater with no problems and operations continue today under this system.” Both commenters provided specific language changes that would be necessary to address this conflict between rules in §§285.3, 330.152 and 330.153.

**The commission agrees with comments from Tyler County and Everett Griffith, Jr. and Associates that a rule conflict exists between §§285.3, 330.152 and 330.153 that poses a problem for those transfer station locations that do not have access to a central collection system. However, the rule changes necessary to correct this conflict are not within the scope of this rulemaking. The commission believes that to add language of the specificity suggested by the**

**commenters without first publishing it as a proposal and taking public comment would preclude public comment from other interested persons. Consequently, the commission will develop rules, as suggested by these commenters, in the near future in a separate rulemaking project.**

#### STATUTORY AUTHORITY

The amended section is adopted under the authority of the Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, pursuant to the Texas Solid Waste Disposal Act, Texas Health and Safety Code, §361.024, which provides the commission with the authority to regulate MSW and adopt rules as necessary to regulate the operation, management, and control of solid waste under its jurisdiction, and by Texas Health and Safety Code, §361.0861 and §361.111, which direct the commission to register certain kinds of transfer stations and to exempt them from permits.

**SUBCHAPTER A : GENERAL INFORMATION**

**§330.4**

**§330.4. Permit Required.**

(a) - (c) (No change.)

(d) A permit is not required for a municipal solid waste transfer station facility that is used in the transfer of municipal solid waste to a solid waste processing or disposal facility from:

(1) - (3) (No change.)

(4) a transfer station located within the permitted boundaries of a municipal solid waste Type I, Type II, Type III, or Type IV facility as specified in §330.41 of this title (relating to Types of Municipal Solid Waste Facilities).

(e) - (p) (No change.)

(q) In addition to permit exemptions established in subsection (d) of this section, a permit is not required for any new municipal solid waste Type V transfer station that includes a material recovery operation that meets all of the requirements established by this subsection. Owners and operators of Type V transfer facilities meeting the requirements of this subsection are allowed to

register their operations in lieu of permitting them. Owners and operators of transfer stations that meet the permit exemption requirements and wish to exercise the exemption option must register their operation in accordance with §330.65 of this title (relating to Registration for Solid Waste Management Facilities).

(1) - (4) (No change.)

(r) - (w) (No change.)

## **SUBCHAPTER E : PERMIT PROCEDURES**

### **§330.65**

#### **STATUTORY AUTHORITY**

The amended section is adopted under the authority of the Texas Water Code, §5.103 and §5.105, which provide the commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and pursuant to the Texas Solid Waste Disposal Act, Texas Health and Safety Code, §361.024, which provides the commission with the authority to regulate MSW and adopt rules as necessary to regulate the operation, management, and control of solid waste under its jurisdiction.

#### **§330.65. Registration for Solid Waste Management Facilities.**

(a) Applicability. This section applies to a municipal solid waste management facility that is exempt from permit requirements under §330.4(d), (g), and (q) of this title (relating to Permit Required).

(b) Construction and operation.

(1) The construction of the transfer facility shall not begin until the registration has been issued by the executive director. Operation of the facility shall not begin until the registration has been issued and a pre-opening inspection is conducted by commission staff.

(2) If a registered facility does not begin construction within two years of issuance of a registration or within two years of the conclusion of the appeals process, whichever is longer, the registration shall automatically terminate and will no longer be effective under §330.4(d)(4) of this title. If a facility registered under previous rule does not begin construction within two years of the effective date of this section, or within two years of the conclusion of the appeals process, whichever is longer, the registration shall automatically terminate and will no longer be effective.

(3) If a transfer station registration application was filed under a previous rule but the registration has not been issued, the applicant shall complete all registration requirements of the previous rule within one year of the effective date of this section or the application will be automatically withdrawn. If a registration application is filed under this section, the applicant shall complete all registration requirements within one year of the date of receipt by the commission or the application will be automatically withdrawn.

(c) (No change.)

(d) Application. The complete registration application shall include Part I of a permit application as required by §330.52 of this title (relating to Technical Requirements of Part I of the Application), including but not limited to, documentation of population or incoming waste rate, site plan, land use narrative, site operating plan, legal description, evidence of competency, evidence of financial assurance, and an applicant's statement, and shall be submitted as follows:



(1) (No change.)

(2) Site plan. The site plan shall include all the general design criteria which could be incorporated in a set of construction plans and specifications. A site layout plan, signed and sealed by a registered professional engineer, and a location map shall be included in the plan.

(A) The site plan or location map, or both, shall identify:

(i) the site boundary;

(ii) access to public roadway;

(iii) site access control features; and

(iv) site drainage features.

(B) Site drawings shall include a north arrow, legend, and scale. All design features shall be labeled.

(C) The site plan may be supplemented with additional sheets as needed to depict all design features.

(3) Land use narrative.

(A) - (B) (No change.)

(C) The applicant and the commission shall conduct a public meeting in the local area, prior to facility authorization, to describe the proposed action to the general public. Notice of the public meeting shall be as specified in §39.101(d) of this title (relating to Application for Municipal Solid Waste Permit).

(D) Landowners list and land ownership maps. The applicant shall provide a list of landowners owning land within 500 feet of the site which includes their addresses along with a map locating the property owned by those persons. This map and list shall identify property owned by adjacent landowners and show all property ownership within 500 feet of the site.

(4) - (6) (No change.)

(7) Evidence of financial assurance. Evidence of financial assurance shall be provided for all facilities registered under this section and those facilities shall comply with provisions of Subchapter K, §§330.280-330.286 of this Chapter (relating to Financial Assurance).

(8) Statement of applicant. The applicant shall provide documentation that the person signing the application meets the requirements of §305.44 of this title (relating to Signatories to Applications). The following document shall be signed, notarized, and submitted with the application:

**Figure 1 30 TAC §330.65(d)(8)**

Figure 1: 30 TAC 330.65(d)(8)

I, \_\_\_\_\_, state that I have knowledge of the facts set forth herein and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to my knowledge and belief, the project for which application is now being made will not in any way violate any law, rule, ordinance, or decree of the duly authorized governmental entity having jurisdiction. I further state that I am the applicant or am authorized to act for the city/county/applicant.

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Type Name and Title)

\_\_\_\_\_

(Date)

Notary public's certificate:

Subscribed and sworn to before me, by the said \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_

Notary Public in and for \_\_\_\_\_

County, Texas.

My commission expires on \_\_\_\_\_.

(e) Design criteria.

(1) - (4) (No change.)

(5) Air pollution and ventilation. Ventilation of structures designed in accordance with applicable codes shall be provided. The facility shall be designed and operated to prevent nuisance odors from leaving the property boundary of the facility.

(A) Openings to process buildings required under (f)(1) of this section shall be controlled to prevent releases of nuisance odors to the atmosphere.

(B) All odor control equipment shall be properly maintained and operated during the process operation.

(C) The applicant shall employ one or more of the following measures:

(i) air scrubber units for odor control;

(ii) on-site buffer zones for odor control;

(iii) additional waste handling procedures, storage procedures, and clean-up procedures for odor control when accepting putrescible waste; or

(iv) alternative ventilation and odor control measures approved by the executive director.

(6) - (9) (No change.)

(10) Site facilities. The site shall provide facilities for potable water, sanitary purposes, office, maintenance, and solid waste transfer. Concrete pads with raised curbs around the perimeter or asphalt paved areas with berms shall be utilized to control spills and contaminated water.

(11) (No change.)

(f) Additional design criteria.

(1) Process area. The process area for transfer stations that recover material from solid waste that contains putrescibles shall be maintained totally within an enclosed building.

(2) Operational design standards. In designing the transfer facility the applicant shall ensure that all requirements of operation required by Subchapter G of this chapter (relating to Operational Standards for Solid Waste Processing and Experimental Sites) will be met. Operational design standards shall be included in the site operating plan.

(3) Safety plan. The applicant shall provide a written safety plan for site workers that operate material recovery equipment or that will hand sort recoverable material from the nonsegregated incoming waste.

(g) Motion for Reconsideration. The applicant or a person affected may file with the chief clerk a motion for reconsideration of the executive director's final approval of an application, under §50.39(b)-(f) of this title (relating to Motion for Reconsideration), of the executive director's final approval of an application. The criteria regarding motions for reconsideration shall be explained in public notices given under Chapter 39 of this title (relating to Public Notice) and §50.33 of this title (relating to Executive Director Action on Application). Notice of issuance of registration shall be mailed to landowners as shown on the land ownership map and landowners list required by §330.65(d)(3)(D) of this title (relating to Registration for Solid Waste Management Facilities), and to any other person requesting notice.